



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

U.I.L. 501.03-10 No Third Party Contacts

Release Number: 201049046
Release Date: 12/10/10
Date: 9/15/10

Contact Person:

Identification Number:

Telephone Number:

Employer Identification Number:

Legend:

X =

Dear

This is in response to your ruling request dated December 23, 2009 that certain changes in your organizational structure and activities will not adversely affect your exempt status under section 501(c)(3) of the Internal Code.

You are exempt under section 501(c)(3) of the Code and classified as an organization other than a private foundation under section 509(a)(2). You were formed for charitable and other exempt purposes and engaged in providing housing for persons of low and moderate income, and to elderly and handicapped persons through direct ownership of Department of Housing and Urban Development (HUD) insured properties. Your original Charter and bylaws provided that your sole member is X, an organization exempt under section 501(c)(3).

You have amended your Charter and bylaws removing X as your sole member and deleting all references to the power and authority of X over you. Instead, the amended Charter provides that you shall have no members and your amended bylaws provide that your governance is vested in your Board of Directors. Your amended Charter also reflects that you will no longer be the direct ownership entity of HUD insured properties.

In compliance with the third party lender's and HUD's single purpose entity requirements, you will create a limited liability company (LLC) as owner of each acquired HUD insured property in providing affordable housing to your state residents. You will be the sole member of each such single purpose LLC, which is treated a disregarded entity for federal tax purposes. You will provide funding for the single member LLCs through the issuance of 501(c)(3) bonds. Upon your dissolution or termination, each LLC shall terminate and your membership interest therein shall be transferred to an organization exempt under section 501(c)(3) of the Code. You have represented that the LLCs are not the "series LLC" type and will not include other investors. In

addition, you have represented that your housing activities and operations, through direct ownership of the HUD insured properties by the LLC, will continue to be conducted along the guidelines set forth in Rev. Proc. 96-32, 1996-1 C.B. 717.

Section 501(c)(3) of the Code provides for the exemption from federal income tax of corporations organized and operated exclusively for charitable and other exempt purposes.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations (the regulations) provides that in order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Section 1.501(c)(3)-1(b)(1)(i) of the regulations provides that an organization is organized exclusively for one or more exempt purposes only if its articles of organization:

- (a) Limit the purposes of such organization to one or more exempt purposes; and
- (b) Do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes.

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(d)(2) of the regulations provides that the term "charitable" is used in section 501(c)(3) in its generally accepted legal sense and includes relief of the poor and distressed or of the underprivileged, lessening of the burdens of government and promotion of social welfare by organizations designed to accomplish any of the above purposes.

Rev. Proc 96-32, supra, provides guidelines for housing organizations in determining qualification for exemption under section 501(c)(3) of the Code that include the following: a safe harbor under which organizations that provide low-income housing will be considered charitable for relieving the poor and distressed as described in section 1.501(c)(3)-1(d)(2) of the regulations; a facts and circumstances test for determining whether organizations that fall outside the safe harbor relieve the poor and distressed as charitable organizations; and the reliance on other charitable purposes described in section 1.501(c)(3)-1(d)(2).

You have amended your Charter and bylaws to remove a sole member and instead will have no members and will be governed by a Board of Directors. We find that such amendments to your creating and governing documents do not change your charitable purpose or empower you to engage in activities not in furtherance of an exempt purpose. We also find that your housing activities, with the creation of single member LLCs as direct entity owners of properties that will

be used in such activities will continue to further charitable purposes described in section 1.501(c)(3)-1(d)(2) of the regulations, given your representation that such activities will comply with the guidelines set forth in Rev. Proc 96-32. As such, you remain organized and operated exclusively for one or more exempt purposes pursuant to sections 1.501(c)(3)-1(a)(1) and 1.501(c)(3)-1(c)(1) of the regulations.

Therefore, we conclude that the organizational structure and activity changes, as described above, will not adversely affect your exempt status under section 501(c)(3) of the Code.

This ruling will be made available for public inspection under section 6110 of the Code after certain deletions of identifying information are made. For details, see enclosed Notice 437, *Notice of Intention to Disclose*. A copy of this ruling with deletions that we intend to make available for public inspection is attached to Notice 437. If you disagree with our proposed deletions, you should follow the instructions in Notice 437.

This ruling is directed only to the organization that requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited by others as precedent.

This ruling is based on the facts as they were presented and on the understanding that there will be no material changes in these facts. This ruling does not address the applicability of any section of the Code or regulations to the facts submitted other than with respect to the sections described. Because it could help resolve questions concerning your federal income tax status, this ruling should be kept in your permanent records.

If you have any questions about this ruling, please contact the person whose name and telephone number are shown in the heading of this letter.

In accordance with the Power of Attorney currently on file with the Internal Revenue Service, we are sending a copy of this letter to your authorized representative.

Sincerely,

/s/

Ronald J. Shoemaker
Manager, Exempt Organizations
Technical Group 2

Enclosure
Notice 437